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February 17, 2012

VIA ELECTRONIC MAIL

Lester Heltzer Executive Secretary National Labor Relations Board 1099 14th Street, N. W. Washington, D. C. 20570

RE: Vertis, Inc./ Local 1, Amalgamated Lithographers of America, GCC/ABT

Case No.: 22-RC-061844

Dear Mr. Heltzer:

The above referenced case is pending before the Board on exceptions from a decision issued by Administrative Law Judge Raymond Green on December 22, 2011.

On behalf of Vertis, Inc., we object to the Board's authority to issue any ruling or decision in Case No. 22-RC-061844 on the ground that the Board does not have a valid quorum.

The Board lacks authority to act in the absence of a quorum of at least three members. New Process Steel, L.P. v. NLRB, 130 S.Ct. 2635 (2010). On January 3, 2012, the term of Board Member Craig Becker expired, and therefore, the Board was left with only two members. Thus, the Board does not have the authority to make a decision in this case.

While President Obama appointed three new members to the Board (i.e., Sharon Block, Richard Griffin and Terence Flynn), those appointments were made without seeking or obtaining the advice and consent of the Senate as required by Article II, Section 2, Clause 2 of the U.S.

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Constitution. In addition, the Senate was not in "recess" at the time the President made these appointments. An agency whose members have been improperly appointed in violation of the Appointments Clause does not have the authority to act, and any party who is adversely affected by such *ultra vires* agency action is entitled to injunctive relief, such as a hearing before properly appointed members. *Ryder v. United States*, 115 S. Ct. 2031 (1995). Consequently, the President's appointments of Members Block, Griffin, and Flynn were unconstitutional and invalid.

For the aforementioned reasons, Vertis, Inc. objects to the Board issuing a ruling or decision related to this case until the Board has a properly appointed lawful quorum. To the extent that Vertis, Inc. participates in any proceeding before the Board, it does so without waiving its right to object and challenge the validity of the Board's authority to act in the absence of a valid quorum.

We have served a copy of this filing by electronic mail to both Counsel for the Union and the Regional Director.

Sincerely

Stephen M. Silvestri Counsel to Vertis, Inc.

cc: Christopher Gant, Esquire (via e-mail)

J. Michael Lightner (via e-mail) Regional Director National Labor Relations Board